

## **APPENDIX B**

### **List of Documents**

**Berks Landfill Site****Sinking Springs, Pennsylvania**

Bates Range	Date	Title/Subject	Type	Author	Recipient
None	10/25/1999	Baseline Aquatic Habitat Assessment Report for Berks LF Superfund Site	Letter	USEPA	Golder Associates
None	3/1/1999	Aquatic Habitat Assessment Work Plan, Berks Landfill Superfund Site	Report	Golder Associates	Berks LF UAO Respondents
None	4/27/1999	Response to Comments Aquatic Habitat Assessment Work Plan Berks LF	Letter	Golder Associates	USEPA
None	2/12/1998	Berks Landfill RI/FS Progress Report, January 1998	Letter	Golder Associates	USEPA
None	1/9/1998	Berks Landfill RI/FS Progress Report, December 1997	Letter	Golder Associates	USEPA
None	3/27/1998	Berks Landfill RI/FS Progress Report, February 1998	Letter	Golder Associates	USEPA
None	4/10/1998	Berks Landfill RI/FS Progress Report, March 1998	Letter	Golder Associates	USEPA
None	4/1/1998	Unilateral Administrative Order	Order	USEPA	Pennsylvania Department of Environmental Protection
None	5/14/1998	Berks Landfill Site	Letter	Drinker Biddle & Reath LLP	Pennsylvania Department of Environmental Protection
None	5/15/1998	Berks Landfill RI/FS Progress Report, April 1998	Letter	Golder Associates	USEPA
None	3/14/1997	Berks Landfill RI/FS Progress Report, February 1997	Letter	Golder Associates	USEPA
None	4/10/1997	Berks Landfill RI/FS Progress Report, March 1997	Letter	Golder Associates	USEPA
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None	6/9/1997	Berks Landfill RI/FS Progress Report, May 1997	Letter	Golder Associates	USEPA
None	7/10/1997	Berks Landfill RI/FS Progress Report, June 1997	Letter	Golder Associates	USEPA
None	9/23/1997	Berks Landfill RI/FS Progress Report, August 1997	Letter	Golder Associates	USEPA
None	8/18/1997	Berks Landfill RI/FS Progress Report, July 1997	Letter	Golder Associates	USEPA
None	10/13/1997	Berks Landfill RI/FS Progress Report, September 1997	Letter	Golder Associates	USEPA
None	11/17/1997	Berks Landfill RI/FS Progress Report, October 1997	Letter	Golder Associates	USEPA
None	12/11/1997	Leachate Sampling Results	Letter	Golder Associates	Systems Design Engineering USEPA
None	12/15/1997	Berks Landfill RI/FS Progress Report, November 1997	Letter	Golder Associates	USEPA
None	12/18/1997	Berks Landfill Superfund Site	Letter	USEPA	Pennsylvania Department of Environmental Protection
None	4/25/1997	Superfund Program Proposed Plan	Report	USEPA	
None	5/19/1997	Berks Landfill Proposed Plan Public Comment Period	Letter	Pennsylvania Department of Environmental Protection	USEPA
None	7/18/1997	Fish Health Berks Landfill	Letter	Pennsylvania Department of Environmental Protection	Waste Management Program biologist USEPA
None	5/12/1997	Concerned Citizens of Western Berks County, USEPA issues the proposed Remedial Action Plan	Letter	American Geotech, Inc.	
None	5/22/1997	Citizen Watchdog Letter	Letter	Vivian Faust	Charles Root, USEPA

**Berks Landfill Site****Sinking Springs, Pennsylvania**

<b>Bates Range</b>	<b>Date</b>	<b>Title/Subject</b>	<b>Type</b>	<b>Author</b>	<b>Recipient</b>
None	Spring 1997	Responsiveness Summary for the proposed Remedial Action Plan	Summary Report		
None	7/1/1997	ROD	ROD	USEPA	Berks LF Superfund Site
None	7/10/1997	Berks Landfill Responsiveness Summary	Letter	Pennsylvania Department of Environmental Protection	USEPA
None	7/30/1997	ROD	Letter	Pennsylvania Department of Environmental Protection	USEPA
None	11/18/1997	Residential & Business Well Sample Analyses Results, Residential and Business Well Data Validation Narrative	Tables	Golder Associates	USEPA
None	4/18/1997	Berks Landfill, FS and ARARs Review	Letter		USEPA
None	4/15/1996	Berks Landfill RI/FS Progress Report, March 1996	Letter	Golder Associates	USEPA
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None	4/19/1996	State ARARs for Berks Landfill	Letter	USEPA	Pennsylvania Department of Environmental Protection
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None	3/26/1996	Berks Landfill Superfund Site	Letter		American Geotech, Inc.
None	7/1/1996	Final Baseline Risk Assessment	Report	Golder Associates	USEPA
None	1/20/2003	May 1997 Fact Sheet	USEPA Website	USEPA	
None	1/20/2003	June 30, 2000 Federal Register	USEPA Website	USEPA	
None	1/20/2003	Current Site Information (NPL Pad)	USEPA Website	USEPA	
None	5/1/2002	Annual Report - 2001 Berks Landfill Superfund Site	Report	USEPA	USEPA
None	1/29/2002	Sampling Results from Residential Wells	Letter	USEPA	residents
None	5/22/2002	Sampling Results from Residential Wells	Letter	USEPA	residents

**Berks Landfill Site****Sinking Springs, Pennsylvania**

<b>Bates Range</b>	<b>Date</b>	<b>Title/Subject</b>	<b>Type</b>	<b>Author</b>	<b>Recipient</b>
None	6/1/2002	O&M and Monitoring Report, 1st Semi-annual Monitoring Event-Year 2002	Report	Golder Associates	USEPA
None	3/1/2002	Post-Remedial Action Construction Aquatic Habitat Assessment	Report	Golder Associates	USEPA
None	1/1/2002	Residential Well Lead Sample Analysis Results, Operation, Maintenance and Monitoring	Letter/ Report	Golder Associates	USEPA
None	7/19/2002	Operation, Maintenance and Monitoring Plan	Letter/ Report	Golder Associates	USEPA
None	7/22/2002	Progress Report No. 41 for Second Quarter 2002 Activities	Letter/ Report	Golder Associates	USEPA
None	10/31/2002	Progress Report for No. 42 for Third Quarter 2002 Activities	Letter	Golder Associates	USEPA
None	1/1/2001	Operations, Maintenance & Monitoring Report, November 2001 Monitoring Event	Report	Golder Associates	USEPA
None	5/1/2001	Operations, Maintenance & Monitoring Plan	Letter/ Report	Golder Associates	USEPA
None	7/1/2001	Remedial Action Completion Report	Report	Golder Associates	USEPA
None	7/14/2000	Berks Landfill Superfund Site	Letter	Golder Associates	USEPA
None	1/5/2000	Sampling Results from Residential Wells	Letter (Four Residential Letters)	Golder Associates	USEPA
None	9/15/2000	Design Change #4,	Letter	Golder Associates	USEPA
None	1/13/2000	Approval of Remedial Action Work Plan	Letter	USEPA	Golder Associates
None	1/1/2000	Revised Remedial Action Work Plan	Letter/ Report	Golder Associates	USEPA

## Sinking Springs, Pennsylvania

### Berks Landfill Site

Bates Range	Date	Title/Subject	Type	Author	Recipient
None	9/1/1999	Final (100%) Design	Letter/ Report	Golder Associates	USEPA
None	12/9/1999	Region III Data and QA Review (Organic data validation report)	Sample Report	USEPA	Regional Program Manager
None	6/21/1905	Baseline Aquatic Habitat Assessment Report for Berks LF Superfund Site	Report	Golder Associates	USEPA

## **SUPPLEMENTAL EXPERT REPORT**

**Berks Landfill Site  
Sinking Springs, Pennsylvania**

*Liberty Mutual Insurance Company*  
v.  
*The Black & Decker Corporation, et al.*  
**U.S.D.C., D. Mass. C.A. 96-10804-DPW**

**February 28, 2003**

*Prepared for:*  
**LIBERTY MUTUAL INSURANCE COMPANY**

*Prepared by:*  
**DENNIS COLTON**  
**PRINCIPAL HYDROGEOLOGIST**  
**ROUX ASSOCIATES, INC.**  
1377 Motor Parkway  
Islandia, New York 11749





## 1.0 INTRODUCTION

I, Dennis Colton, P.G., Principal Hydrogeologist at Roux Associates, Inc., have reviewed my April 30, 1998 Expert Report regarding the Berks Landfill Site, in Sinking Spring, Pennsylvania. More specifically, I have reviewed my opinions presented in this report with respect to this site and have concluded that my opinions and bases are still accurate and correct, based on the supporting documents I had reviewed in 1997/1998, as well documents made available to me through a Freedom of Information Act (FOIA) request conducted in January 2003.

My conclusions are based on the following:

- Reports, maps, correspondence and other documents provided by counsel;
- Publicly available reports, maps and other documents; and
- Professional experience in hydrogeology and the investigation of contaminated sites.

During the upcoming trial, I am currently planning to use various exhibits to assist in presenting my opinions. I am planning to use site maps, aerial photos, excerpts from various documents, sampling data and tables. Some of these exhibits were included as figures in my 1998 Expert Report, whereas others are contained in or derived from documents obtained from Black & Decker or from environmental regulatory agencies. All of these documents are included in my index of documents reviewed in January 2003 (Appendix B) or listed in my 1998 Expert Report. In addition, there is the potential that new information, such as site photographs or recent technical reports, may be used to develop additional exhibits between now and the start of the trial.

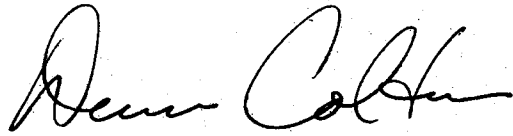
My professional profile is provided in Appendix A. An index of the recently obtained documents I reviewed in 2003 is provided in Appendix B. My billing rate is \$175 per hour.

## 2.0 SITE DESCRIPTION AND SITE HISTORY

- The Berks Landfill Site is located in Spring Township, Berks County, Pennsylvania. It is approximately 7 miles southwest of the City of Reading. The site consists of two closed landfills that include a 49-acre eastern landfill and a 19-acre western landfill.
- Historically, the property was the location of an iron ore mine. From the 1950's to the 1980's, the Berks Landfill operated as a municipal landfill. In 1975, the landfill was granted a permit by the Pennsylvania Department of Environmental Resources (PADER) to discharge leachate from its collection system into an adjacent stream. Also, in 1975, the eastern landfill was granted a solid waste permit to accept municipal refuse and demolition refuse.
- The Berks Landfill was listed on the National Priorities List (NPL) in October 1989.
- In July 1997, USEPA selected a remedy to remediate the site that included: repair of the eastern landfill cap; repair and continued operation of the existing leachate collection system; long-term monitoring of onsite wells, residential wells, a sentinel well, landfill gas, and the aquatic habitat; and institutional controls to prevent future consumption of onsite groundwater and to restrict any future onsite development.
- USEPA gave the Potentially Responsible Parties (PRPs) the opportunity to provide good faith offers to perform the remediation; however, none were received and USEPA ordered the PRPs to perform the work. In accordance with the order, a subgroup of the PRPs developed a remedial design plan that outlined how the landfill cap and leachate collection system would be repaired. USEPA approved the plan in January 2000.
- Construction began in June 2000 and continued until October 2000 with regular oversight from USEPA and the Bureau of Reclamation. During the construction season, the eastern landfill was covered with soil and seeded. On the western landfill, 7,000 feet of inspection trails were laid. The leachate collection lines and manholes were cleaned, inspected, and repaired. The three existing leachate collection ponds were reshaped and relined to accommodate an approximate volume of 1.5 million gallons. The leachate is pumped to the local sewage treatment plant. To monitor site conditions, a sentinel well was installed, as well as nine gas monitoring wells were installed. A total of 300 trees were planted to improve a wetland at the site.
- After construction was completed, USEPA conducted site inspections in October and November 2000, and determined that the remedy was constructed in accordance with the remedial design. Long-term monitoring of the site began in December 2000 to evaluate onsite and offsite groundwater quality and landfill gas production.

Respectfully submitted,

ROUX ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Dennis Colton". The signature is fluid and cursive, with the first name "Dennis" and last name "Colton" clearly distinguishable.

Dennis Colton  
Principal Hydrogeologist

Appendix A - Professional Profiles

Appendix B - Documents Recently Obtained Through a FOIA Request

**APPENDIX A**  
**Professional Profile**



## Dennis Colton

### Principal Hydrogeologist

#### Technical Specialties:

Investigation and remediation of soil and groundwater contamination. Negotiations with regulatory agencies. Expert testimony/litigation support. Environmental site assessments.

#### Experience Summary:

Twenty-four years of experience: Principal Hydrogeologist at Roux Associates; Senior Associate at Geraghty & Miller. Successfully directed CERCLA and RCRA investigations, ECRA/ISRA studies, NAPL investigations, expert testimony/litigation support projects and environmental site assessments throughout the United States and Canada.

#### Credentials:

M.S. Hydrogeology, Adelphi University, 1978

B.S. Geology, University of Maryland, 1972

Certified Professional Geologist, A.I.P.G.

Certified Professional Geologist, Missouri and Pennsylvania

#### Professional Affiliations:

Association of Groundwater Scientists and Engineers (NWWA)

American Institute of Professional Geologists

#### Key Projects:

- Directed an RI at a 36-acre state superfund site in Illinois that includes a 22-acre industrial landfill. The project included the successful construction and operation of a pilot treatment plant used to demonstrate that impacted groundwater could be treated biologically.
- Served as project director for the completion of the Remedial Design/Remedial Action (RD/RA) phase of work at a CERCLA site in Indiana. Successfully negotiated cost-saving strategies that eliminated several areas of concern thus reducing the areas designated for remediation via a soil vapor extraction system.
- Successfully managed the groundwater investigation of an RFI/CMS at a large waste disposal facility in New Jersey saving the client \$500,000 in investigative costs. Reduced the number of SWMUs by combining them into waste management areas. A global groundwater approach eliminated the need for unit specific groundwater investigations.
- Directed the RCRA closure of a chlor-alkali facility at a major chemical manufacturing facility in Illinois. A risk assessment was used to develop an alternative cleanup level for mercury which limited the volume of soil to be remediated. The agency was convinced that only dissolved metals were required to be analyzed for in groundwater, and mercury was not detected. Therefore, groundwater remediation was not warranted.
- Successfully completed an RFI for a 100-acre chemical plant located in Missouri. A groundwater model was constructed which demonstrated that there was only de minimis risk to a nearby river that is used as a potable water supply.
- Directed a hydrogeologic investigation of soil/groundwater contamination in overburden/bedrock at an ISRA site in New Jersey (dye manufacturing facility). Air sparging was selected to remediate the overburden aquifer which resulted in significant cost savings and a reduction in the length of operation. Natural remediation was used to address BTEX compounds in the bedrock rather than an expensive pump and treat program that was proposed by the previous consultant.

#### Litigation/Settlement Support

- Provided litigation support at the request of an insurance company's counsel to evaluate the issues involved for cost recovery at an aluminum reduction facility in Ohio. Issues included expected/intended, normal business costs v. remedial costs, mitigation, relative contribution, past costs and late notice.
- Provided litigation support at the request of various insurance companies' counsels to evaluate eight separate claims (\$2 to 5 billion per claim) for the remediation of soil and groundwater at oil refineries, terminals and chemical plants throughout the United States, and evaluate natural resource damage (NRD) claims and third party claims.
- Provided litigation support at the request of various insurance companies' counsels to evaluate six separate claims for the costs proposed for the remediation of soil and groundwater at numerous oil terminals, refineries and retail gasoline service stations throughout the United States.
- Provided litigation support at the request of an insurance company's counsel to evaluate the costs proposed in approximately 50 separate claims by PRPs at Superfund sites throughout the United States and Puerto Rico with regard to remediation of on-site and off-site groundwater, on-site soil and off-site wetlands.
- Provided litigation support at the request of various insurance companies' counsels to evaluate five separate claims for past and future costs at former manufactured gas plants (MGP) throughout the Northeast, including NRD claims and private party claims.
- Provided litigation support at the request of an insurance company's counsel to evaluate past and future costs at MGP sites, power plants and superfund sites in California.
- Provided litigation support at the request of an insurance company's counsel to evaluate past and future costs at former wood preservative facilities in Georgia, Florida, North Carolina and Tennessee.
- Provided litigation support to a PRP Group regarding the No. 1 site on the NPL (LiPari Landfill) to evaluate costs incurred to remediate off-site areas.
- Provided litigation support to a major pigment manufacturer during court-ordered mediation regarding the cost to remediate soil and groundwater at a site in a residential area.
- Provided litigation support to various insurance companies to evaluate six separate claims for past and future costs at mining sites in Arizona, Utah, Colorado, Idaho, New Mexico, Michigan, and Washington.
- Provided litigation support to a major pigment manufacturing company alleged to have contaminated a municipal well field. A groundwater model was used to demonstrate that our client could not have impacted the well field.
- Provided litigation support at the request of a manufacturing company's counsel to evaluate the magnitude and timing of contaminants that migrated into a municipal well field from various locations in all directions from the well field.
- Provided litigation support at the request of an insurance company's counsel to evaluate the impact of PCB discharges to soil and groundwater at an aluminum manufacturing facility in Missouri.



# Professional Profile

## Dennis Colton, P.G. Principal Hydrogeologist

Case	Retained By	Counsel	Expert Report Prepared	Affidavit Prepared	Deposition Provided
Cycle Chem v. Great Southwest Fire Insurance Company, et al. (1998)	Sentry Insurance Company	Paul Gorfinkel; Rivkin, Radler & Kremer	Yes	No	Yes
Liberty Mutual v. Black & Decker Corp. (1998)	Liberty Mutual	Robert Whitney Holland & Knight	Yes	No	No
Pantasote, Inc. v. N.J. Manufacturing Casualty, et al. (1999)	Sentry, The Hartford and Allstate Insurance Companies	James F. Stewart Rivkin, Radler & Kremer and Donna Stephan-Nolan, Purcell, Ries, Shannon, Mulcahy & O'Neill	Yes	No	Yes
Pantasote, Inc. v. N.J. Manufacturing Casualty, et al. (2000)	Sentry, The Hartford and Allstate Insurance Companies	Paul Gorfinkel Rivkin, Radler & Kremer and Donna Stephan-Nolan, Purcell, Ries, Shannon, Mulcahy & O'Neill	Yes	No	Yes
Royal Insurance Company and American Employers Insurance Company v. Kirkville College of Osteopathic Medicine (2001)	Royal Insurance Company	John Hayob Niewald, Waldeck & Brown	No	Yes	No
The Glidden Company v. Aetna Casualty & Surety Company, et al. (2001)	Zurich-American Insurance Company	Keith Watson Wiley, Rein & Fielding	Yes	No	Yes
Dura Automotive Systems of Indiana, Inc. v. CTS Corporation (2002)	Dura Automotive Systems of Indiana, Inc.	W.C. Blanton Blackwell, Sanders, Peper, Martin, LLP	Yes	No	No



# Professional Profile

## Dennis Colton, P.G. Principal Hydrogeologist

Case	Retained By	Counsel	Expert Report Prepared	Affidavit Prepared	Deposition Provided
Halocarbon Products Corporation v. Hartford Accident & Indemnity Company (2002)	The Hartford	Michael O'Neill Purcell, Ries, Shannon, Mulcahy & O'Neill	Yes	No	No
American Home Products v. Adriatic Insurance Company, et al. (2002)	Insurance Carrier Defense Group	Mark Plevin Crowell Moring	No	Yes	No
Tielmann v. Camp Dresser McKee v. The Hartford, et al. (2002)	The Hartford	John Bowens Purcell, Ries, Shannon, Mulcahy & O'Neill	Yes	No	Yes

**APPENDIX B**

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through a FOIA Request**



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None	4/27/1999	Response to Comments Aquatic Habitat Assessment Work Plan Berks LF	Letter	Golder Associates	USEPA
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None	5/19/1997	Berks Landfill Proposed Plan Public Comment Period	Letter	Pennsylvania Department of Environmental Protection	USEPA
None	7/18/1997	Fish Health Berks Landfill	Letter	Pennsylvania Department of Environmental Protection	Waste Management Program biologist USEPA
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None	7/1/2001	Remedial Action Completion Report	Report	Golder Associates	USEPA
None	7/14/2000	Berks Landfill Superfund Site	Letter	Golder Associates	USEPA
None	1/5/2000	Sampling Results from Residential Wells	Letter (Four Residential Letters)	Golder Associates	USEPA
None	9/15/2000	Design Change #4,	Letter	Golder Associates	USEPA
None	1/13/2000	Approval of Remedial Action Work Plan	Letter	USEPA	Golder Associates
None	1/1/2000	Revised Remedial Action Work Plan	Letter/ Report	Golder Associates	USEPA
None	9/1/1999	Final (100%) Design	Letter/ Report	Golder Associates	USEPA
None	12/9/1999	Region III Data and QA Review (Organic data validation report)	Sample Report	USEPA	Regional Program Manager
None	6/21/1995	Baseline Aquatic Habitat Assessment Report for Berks LF Superfund Site	Report	Golder Associates	USEPA